

Presentment Date and Time: June 30, 2023 at 12:00 p.m.

Objection Deadline: June 29, 2023 at 12:00 p.m.

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Counsel for the Debtor

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re	:	Chapter 11
	:	
WYTHE BERRY FEE OWNER LLC,	:	Case No. 22-11340 (MG)
	:	
Debtor. ¹	:	
	:	
	:	
-----X	:	

**NOTICE OF PRESENTMENT OF DEBTOR'S MOTION FOR ENTRY OF AN ORDER,
PURSUANT TO LOCAL BANKRUPTCY RULE 2090-1(e), TO WITHDRAW ZACHARY
DENVER AS A COUNSEL TO THE DEBTOR**

PLEASE TAKE NOTICE that Wythe Berry Fee Owner LLC, as debtor and debtor in possession (the “**Debtor**”) in the above-captioned chapter 11 case, will present the Motion for Entry of an Order, Pursuant to Local Bankruptcy Rule 2090-1(e), to Withdraw Zachary Denver as a Counsel to the Debtor (the “**Motion**”)² to the Honorable Martin Glenn, Chief United

¹ The Debtor's principal offices are located at 199 Lee Avenue, Suite 693, Brooklyn, New York 11211. The last four digits of the Debtor's Federal Tax Id. No. are 9776.

² Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Motion.

States Bankruptcy Judge for the Southern District of New York, for signature on **June 30, 2023 at 12:00 p.m. (Prevailing Eastern Time)**.

PLEASE TAKE FURTHER NOTICE that any responses or objections (the “**Objections**”) to the Motion shall be in writing, shall conform to the Bankruptcy Rules and the Local Bankruptcy Rules for the Southern District of New York (the “**Local Bankruptcy Rules**”), shall be filed with the Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”) (i) by attorneys practicing in the Bankruptcy Court, including attorneys admitted *pro hac vice*, electronically in accordance with General Order M-399 (which can be found at www.nysb.uscourts.gov), and (ii) by all other parties in interest, on a CD-ROM, in text-searchable portable document format (PDF) (with two single-sided hard copies delivered to the Judge’s Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable, and shall be served in accordance with General Order M-399, the Bankruptcy Rules, and the Local Bankruptcy Rules, so as to be filed and served upon (a) the proposed attorneys for Debtor Herrick, Feinstein LLP, Two Park Avenue, New York, NY 10016 (Attn: Avery S. Mehlman, Esq., Stephen B. Selbst, Esq., Janice Goldberg, Esq., and Rodger T. Quigley, Esq.); and (b) the Office of the United States Trustee for Region 2, Alexander Hamilton Custom House, One Bowling Green, Room 534, New York, NY 10004-1408, Attn: Andrea B. Schwartz, andrea.b.schwartz@usdoj.gov, by no later than **June 29, 2023 at 12:00 p.m. (Prevailing Eastern Time)** (the “**Objection Deadline**”).

PLEASE TAKE FURTHER NOTICE that if no Objections are timely filed and served with respect to the above referenced Motion, the Bankruptcy Court may enter granting the relief sought without further notice.

PLEASE TAKE FURTHER NOTICE that, if an objection is timely filed and served with respect to the Motion, a hearing (the “**Hearing**”) will be held to consider the Motion before the Honorable Martin Glenn, Chief United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of New York, Courtroom 523, One Bowling Green, New York, NY 10004-1408 on a date to be announced.

PLEASE TAKE FURTHER NOTICE that any objecting parties are required to attend the Hearing, and failure to appear may result in relief being granted upon default.

PLEASE TAKE FURTHER NOTICE that, due to the COVID-19 pandemic, the Hearing, if held, will be conducted using Zoom for Government. Parties should not appear in person and those wishing to appear or participate at the Hearing (whether “live” or “listen only”) must make an electronic appearance through the Court’s website prior to 4:00 p.m. (Prevailing Eastern Time) on the business day prior to the Hearing. Instructions for making an eCourtAppearance and additional information on the Court’s Zoom procedures can be found at <http://www.nysb.uscourts.gov/content/judge-martin-glenn>.

Dated: June 23, 2023
New York, New York

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Counsel for the Debtor

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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WYTHE BERRY FEE OWNER LLC,	:	Case No. 22-11340 (MG)
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Debtor.¹	:	
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	:	
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**DEBTOR'S MOTION FOR ENTRY OF AN ORDER, PURSUANT TO LOCAL
BANKRUPTCY RULE 2090-1(e), TO WITHDRAW ZACHARY DENVER AS
ATTORNEY OF RECORD TO THE DEBTOR**

This motion (the “**Motion**”) seeks, pursuant to Local Rule 2090-1(e) of the Local Bankruptcy Rules, an order² withdrawing Zachary Denver, Esq. (“**Attorney Denver**”) of Herrick, Feinstein LLP (“**Herrick**”) as an attorney of record to the Debtor. This Motion further seeks that Attorney Denver’s name be removed from any applicable service lists, including the Court’s CM/ECF electronic notification list, maintained in the above-captioned case. Herrick

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² A copy of the proposed order is attached as Exhibit A.

will continue to serve as counsel for Wythe Berry Fee Owner LLC (“**Debtor**”). In support of this Motion, Herrick respectfully states as follows:

1. On October 6, 2022, Mishmeret Trust Company Ltd., solely in its capacity as Trustee of the Series C Bonds, Yelin Lapidot Provident Funds Management Ltd., The Phoenix Insurance Company Limited and Klirmark Opportunity Fund III L.P. (each a “**Petitioning Creditor**” and together the “**Petitioning Creditors**”) filed an involuntary petition (the “**Involuntary Petition**”) seeking an Order for Relief pursuant to section 303 of title 11 of the United States Code (the “**Bankruptcy Code**”) against the Debtor (ECF Nos. 1, 2).

2. On October 6, 2022, Attorney Denver filed an appearance to represent the Debtor in this Chapter 11 case.

3. Attorney Denver is no longer with Herrick and, therefore, will no longer be representing the Debtor in this chapter 11 case.

4. Rule 2090-1(e) of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”) provides that an attorney who has appeared as attorney of record may withdraw or be replaced only by order of the Court for cause shown. Attorney Denver’s departure from Herrick ends his representation of the Debtor and through this Motion Herrick requests an order of this Court permitting Attorney Denver’s withdrawal.

5. The Debtor will continue to be represented by Herrick and no prejudice will be caused to the Debtor by Attorney Denver’s withdrawal.

WHEREFORE, for the reasons set forth in this Motion, Herrick requests that the Court enter the proposed order submitted with this Motion granting the relief requested and such other and further relief that the Court considers appropriate.

Dated: June 23, 2023
New York, New York

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Counsel for the Debtor

Exhibit A

Proposed Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	:	
	:	
In re	:	Chapter 11
	:	
WYTHE BERRY FEE OWNER LLC,	:	Case No. 22-11340 (MG)
	:	
Debtor.¹	:	
	:	
-----X	:	

**ORDER GRANTING MOTION FOR ENTRY OF AN ORDER, PURSUANT TO LOCAL
BANKRUPTCY RULE 2090-1(e), TO WITHDRAW ZACHARY DENVER AS
AN ATTORNEY OF RECORD FOR THE DEBTOR**

Upon the Motion for Entry of an Order, Pursuant To Local Bankruptcy Rule 2090-1(e), to withdraw Zachary Denver, Esq. (the “**Motion**”),² dated June ____, 2023 [ECF Doc. #[●]] the Court having reviewed the Motion; and the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) venue is proper in this district pursuant to 28 U.S.C. § 1410, (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P) and (iv) notice of Presentment of the Motion was sufficient under the circumstances, and the Court having found and determined that the relief sought in the Motion is appropriate, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is:

ORDERED, that the Motion is granted as provided herein; and it is further

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ORDERED, that Zachary Denver is withdrawn as a Herrick, Feinstein LLP attorney of record on behalf of Wythe Berry Fee Owner LLC; and it is further

ORDERED, that Zachary Denver shall no longer receive electronic notices from the Court's CM/ECF system in this proceeding.

Dated: _____, 2023
New York, New York

HONORABLE MARTIN GLENN
CHIEF UNITED STATES BANKRUPTCY JUDGE